RECLAIMING JAKARTA’S NORTH COAST: PERSPECTIVES FROM THE DEFENSE, SECURITY, AND CONSTITUTIONAL ASPECTS

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Naskah dikirim: 22 Oktober 2016
Naskah diterima untuk diterbitkan: 7 Juni 2017

Abstract

Indonesia’s sea territory is particularly important in uniting the country, as the sea is a medium for interconnectivity; a medium for national integrity; a medium for resources; a medium for diplomacy; and a medium for national defense and security. This paper will focus on the sea’s significance to Indonesia’s national unity in its role as a medium for interconnecting the country’s many islands, and the implications thereof to Indonesia’s national security and defense. This paper will within this context discuss in particular the reclamation of Jakarta’s north coast. This research applies a normative empirical methodology, and intends to provide a scientific basis for the argument that as Jakarta’s coastline is crucial in terms of national defense and security matters, the coastline should therefore be managed by a state agency and remain publicly accessible.

Keywords: coastline defense and security; north Jakarta coastline reclamation,

Abstrak

Wilayah laut Indonesia sangat penting untuk menyatukan negara, hal ini mengingat laut sebagai perantara interkoneksi, medium kesatuan nasional, medium untuk sumber daya, medium untuk diplomasi, dan medium untuk pertahanan dan keamanan nasional. Tulisan ini akan berfokus pada pentingnya laut terhadap kesatuan nasional Indonesia, sebagai medium untuk menghubungkan kepulauan diseluruh Indonesia, dan dampak laut terhadap pertahanan dan keamanan nasional. Tulisan ini dalam konteksnya akan membahas secara khusus reklamasi pantai utara Jakarta. Penelitian ini menggunakan metode normatif-empiris, dan bertujuan untuk memberikan dasar argumentasi ilmiah bahwa garis pantai Jakarta penting untuk pertahanan dan keamanan nasional, sehingga pengelolaan pesisir harus dikelola oleh lembaga negara dan dapat tetap diakses oleh publik.

Kata kunci: pertahanan dan keamanan pesisir, reklamasi pantai utara Jakarta
I. Introduction

1. Background

Indonesia first proclaimed itself as a maritime state through the Djoeanda Declaration on December 13, 1957, which was then passed into law as Government Regulation in lieu of Law No.4 Year 1960 on Indonesia’s Sea Territory. Indonesia then ratified the 1982 United Nations Convention on the Law of the Sea (UNCLOS) in Law No.17 Year1985 and amended its sea territory law as the Law No. 6 Year 1996.

The Djoeanda Declaration\(^1\), the UNCLOS ratification, and all the national legal standings affirmed Indonesia as an archipelagic state with a sea territory totalling 5.8 million square-kilometers, consisting of 3.2 million square-kilometers of territorial waters and 200 nm of an Exclusive Economic Zone (EEZ). Indonesia is also acknowledged of comprising 17,504 islands, whose combined coastlines extend up to 95,181 kilometers\(^2\).

As a maritime state, Indonesia has the authority and sovereign rights over all its archipelagic territorial waters. It also has rights to manage all natural resources within and under its EEZ and continental shelf. All of this economic potential within its vast territory means that Indonesia is actually a very wealthy country.

Moreover, Indonesia is positioned between the two continents of Asia and Australia, as well as between the two Indian and Pacific oceans. Indonesia, therefore, has a strategic position politically and economically in the region, and even globally\(^3\).

Indonesia further reasserted itself as a maritime state when the Indonesian government outlined its maritime-oriented strategy through the Bunaken Declaration on September 26, 1998\(^4\). The declaration emphasized how Indonesia’s national development planning should be oriented towards the sea. All government agencies should focus on developing, utilizing, and preserving Indonesia’s maritime potentials. This, however, must always involve public participation, as utilizing and developing the maritime potentials should always be in line with the community’s socio-economic and socio-cultural values.


2. Research Aim and Objectives

Within this context of Indonesia as a maritime state, and in light of the reclamation project on Jakarta’s north coast, many activists have raised concerns over the project. The concerns have mainly been around environmental issues and the issuance of permits for the reclamation project. Issues regarding national defense and security in relation to the project, however, have yet been thoroughly discussed. The author of this research considers such issues of defense and security as much as an importance to be examined, since Jakarta is Indonesia’s capital city and a vital province, of which more special protection of its territory are needed.

The aim of this research is therefore providing a scientific-based argument on the importance of the capital city’s coastal areas for Indonesia’s national defense and security.

3. Research Questions

This research will thus attempt to address the following issues:
1. How should the State manage Indonesia’s coastal and marine areas?
2. Is the reclamation of Jakarta’s North Coast in accordance with national and international laws?
3. What are the impacts of the reclamation project to Indonesia’s security and defense?

4. Research Methodology

This research will apply a normative empirical methodology in its examination of the issues. The author of this research conducted field observations at the reclamation sites in North Jakarta. The observations included interviews with several activists who have been supporting the cause for fishermen at the reclamation sites, as well as interviews with the fishermen themselves. Continuous literary research in keeping up to date with issues regarding the reclamation project was also carried out.

Several problems regarding the reclamation project were then identified, mainly concerning the central government’s policies when deciding on the reclamation. This research specifically looks into the problem of how the government should address defense and security concerns relating to the reclamation project, and whether national and international laws were applied in the project.

II. Discussion

1. Reclamation According to the Indonesian Law

According to Article 25 paragraph a of Indonesian Constitution, Indonesia is a unitary state characterized by an archipelagic setting of which boundaries and rights are defined by law. Meanwhile, Article 33 paragraph (2) stipulates that the State should oversee strategic activities that will potentially affect the lives of many.
The Constitution also stipulates that the State holds authority and management of coastal areas and small islands of which utilization should be used for the prosperity of the nation. In its management of those areas, the State should weigh in and balance economic interest of all stakeholders, as well as defense and security issues. None should outweigh the other, but the priority will be higher to maintain security of the nation.

Why should the State manage coastal areas and small islands?

By nature, these territories possess a wealth of resources, which should be managed from socioeconomic, cultural, environmental and economic aspects. The State manages them for the interest of public benefits. Public benefits mean the interest of many stakeholders.

Moreover, the seas are a medium for national unity because they link the terrestrial area, the islands. Indonesia’s unity is also defined by its seas and coastal area, which serve as the State’s geographical boundaries. The State should guard these boundaries as national interest.

The Government of Indonesia (GoI) manages the State based on the mandate of the Constitution in managing small islands and coastal areas. Each of its decision should not go beyond that mandate and should try to best balance economic interests of all stakeholders, as well as protect national security. In the events of a clash between economic interest and national security, the latter should be of highest priority. This applies for any policies made upon management of small islands and coastal areas.

What is the North Jakarta Coastline Reclamation and how does it fit within the above framework?

Initiated by the Jakarta Provincial Government, the North Jakarta Coastline Reclamation project involves the construction of 17 man-made islands, with a projected total area of 2,700 hectares, approximately the size of neighboring city Bogor. The private sector will carry out the construction of these man-made islands.

The author discusses the GoI policy on the North Jakarta Coastline Reclamation. This policy has many conflicting issues.

The first issue is environmental problem. Both the Indonesian Ministry of Environment and environmental non-governmental organization WALHI raise concern over the impact that land reclamation will have on the gradual decrease of water salinity inside the boundaries of the project, which is essentially turning salt into fresh water. This will have severe impact on the biodiversity, and more importantly, Jakarta will lose its mangrove forests.

Slamet Daroyni, an activist of Indonesian Forum for the Environment (WALHI), said that the coastal area would lose its ecological functions with

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the potential loss of Muara Angke natural reserves, the existing coral reefs and sea grasses. In addition to that, the reclamation project will worsen annual flooding and clean water crisis.

Former Minister of Environment, Nabil Makarim, issued Ministerial Decree No.14/2003 to oppose the reclamation after considering a recommendation issued by the Central Commission of Environmental Assessment, which was tasked to study the environmental impact analysis on the project (AMDAL), based on article 19 paragraph (2) and Article 22 paragraph (1) Government Regulation No. 27/1999 regarding AMDAL. The study itself stated that the reclamation will worsen flooding in the city as it would raise water levels in rivers flowing through the northern coastal areas by up to 12 centimeters. Reclamation will also negatively impact livelihood of fishermen, destroy marine ecosystem, and also spreading pollution towards the Thousand Islands (Kepulauan Seribu)\(^6\).

Given that reclamation involves transporting a massive amount of soil from one area to another, the project will also create environmental problem on the soil-mining site. The project will need around 330 million cubic meter of soil, which is to be mined from Bangka Island, North Coast of West Java, and also West Java hills i.e. Cisadane, Citarum, Parung Panjang, and Jonggol. As a result, the project could also decrease environmental quality of three neighboring provinces of Bangka, West Java, and Banten.

Emil Salim\(^7\), an environmental expert and former Minister of Environment, said that the project would be worsening flooding in Jakarta. He also said that it would worsen impact of sea level rise due to climate change, which will cause some coastal areas to be completely submerged.

The second issue is management authority. Who holds authority over management of these man-made islands? Based on the Constitution, GoI should manage these areas. But, will the private sector, which developed these islands, provide access to GoI?

In this article, the author is concerned by the third issue: national security, by putting forth the argument that the reclamation project will endanger security defense. By surrendering development and management of coastal area to the private sector, GoI will lose the power to overcome, command, govern, dominate, take control, and possess them. In consequence, if there is an emergency situation such as terrorism and foreign attack from the seas, GoI cannot protect the territory integrity of Jakarta as the capital city of Indonesia.

Who will actually benefit from the project? Private developers is set to host luxurious real estate and golf courses, accessible only for those of higher income as properties are being sold for Rp30 million (US $ 2,200) per square meter (the price in 2016). These private developers are\(^8\):

\[^6\] Ibid.
\[^7\] Interviewed at the Seminar of The New Geopolitics of Indonesia at Mall of Indonesia, Jaya Suprana School of Performing Art, 7 January 2016, 04.00 PM.
\[^8\] The Jakarta Post, November 6, 2015, Weekly 5: Arguments for, against reclamation.
1. PT. Kapuk Naga Indah gets 79 Ha in A island, 380 Ha in B island, 276 Ha in C island, 312 Ha in D island, 284 Ha in E island. PT. Kapuk Naga Indah in total it gets 1331 Ha;
2. PT. Jakarta Propertindo, gets 190 Ha in F island;
3. PT. MuaraWisesaSamudra gets 161 Ha in G island;
4. PT. Taman Harapan Indah gets 63 Ha in H island;
5. PT. Jaladi& PT PJA gets 405 Ha in I island;
6. PT. Pembangunan Jaya Ancol gets 316 Ha in J island;
7. PT PJA gets 32 Ha in K island;
8. PT. ManggalaKriskaYudha/PT PJA gets 447 Ha in L island;
9. PT. MKY & PT. Pelindo gets 587 Ha in M island;
10. PT. Pelindo gets 379 Ha in N island;
11. PT. Jakpro gets 334 Ha in O island; and
12. PT. KekMarunda gets 483 Ha in P and 369 HA in Q islands. (In total it gets 852Ha).

The Jakarta Post, November 6, 2015, Weekly 5: Arguments for, against reclamation.

According to the Law No. 27 of 2007 about the Management of Coastal Areas and Small Islands, Article 17 paragraph (4) the permit to manage the coastal areas and small islands cannot be issued if the location is in the core zone in the conservation area, sea lane, port area and public coast.

Based on Article 17 paragraph (4) Number 27 of 2007, GoI should not adopt the permit for private sector to reclaim the Northern Coast of Jakarta since it is in the core zone of sea-lane. Moreover, at the Northern Coast of Jakarta, there is main port of Jakarta, and it is public coast.

The Transportation Ministry’s Tanjung Priok Port Authority representative said that the land reclamation would hamper the passage of ships.
in and out of ports, and there are a number of seaports along the north coast, including Muara Angke, Sunda Kelapa, Tanjung Priok and Marunda.\textsuperscript{11}

The Indonesian Association of sub-marine Communications Cable Systems representative warned that many telecommunications cables were located under a number of the planned islets. An accident could lead to the disruption of communications.\textsuperscript{12}

There are many vital state objects and there is public port in the North Coast of Jakarta. The 2,700 hectares project is public space; therefore GoI should not privatize the coastal area of Jakarta. GoI should first get permission from the public before issuing any permit for the use of public space. The Law mandates that public participation is needed when utilizing coastal resources and small islands resources. The purpose of managing of coastal areas and small islands is in order to upgrading socio, economic, and cultural values of the communities.\textsuperscript{13}

The 2,700 hectares project will hamper the vital state objects and there is public port in the Northern Coast of Jakarta.

In addition to that planning, utilizing, surveillance, and controlling the management of coastal and marine areas should be focused for public prosperity and the integrity of the Unitary State of Republic of Indonesia.

The provincial government of special region of Jakarta has evicted the 12,000 fishermen in North Jakarta Sea.\textsuperscript{14} The people who live in the area should leave the coastal area because the area will be privatized.

All the fishermen and low-income inhabitants who lived in Kamal Muara, MuaraBaru, MuaraAngke, LuarBatang, Marunda, and Ancol, are those who would potentially lose their livelihoods. Reclamation project will further marginalize all those people for the increase of land’s price in new area without being balanced by the economic capability of previous inhabitants. Even before the project started, there has been an eviction in Ancol Barat (Pademangan) where numerous fishermen chose to move, voluntarily, rather than being evicted by force, and later givenRp 500,000 per family as compensation.

Fishermen are worried that if reclamation project insist to be carried out, conflict among fishermen will be difficult to prevent. Conflict will happen when fishermen from Jakarta enter the water of other provinces. Aside from that, thousands of fishermen will lose their occupation from their difficulties on accessing fish in Jakarta’s water. Some of the fishermen firmly rejected the quarries process in Jakarta Northern Coastal. Their refusal is based on argument that even before the quarries process take place, they already have difficulties on accessing fish in Jakarta’s water. Those conflicts may potentially hamper the State security especially in Jakarta.

\textsuperscript{11} Devina Heriyanto, \textit{Q&A: The Problem with Jakarta’s Land Reclamation}, Jakarta Post, 7 April 2016.
\textsuperscript{12} Ibid.
\textsuperscript{13} Article 4 (4) Coastal & Small Island Management Law
\textsuperscript{14} Luhut Binsar Pandjaitan, the Coordinating Minister for Maritime Affairs of Indonesia at the Parliament Complex, Senayan, Jakarta, Wednesday, 14 September 2016.
According to the plan, the local government will provide apartments to fishermen, along the reclamation process. In responding to that plan, the fishermen declare that they do not need rented subsidized apartment. Up until the present time, neither the National nor Jakarta Provincial Governments nor the developers have provided any communities with specific proposals for either relocation or compensation for the loss of their homes. It is anticipated that if alternative accommodation is provided it is likely to be located too far away from the foreshore to enable people to continue with their fishing activities.\(^\text{15}\)

The GoI has never conducted public participation when he decided to adopt those solutions and the permit for reclamation in North Jakarta. The citizens of Jakarta have disagreed with the decision. The disagreement of citizens may be seen by the submission of a lawsuit to the Jakarta Administrative Court. The Court’s verdict is the reclamation permit should be annulled since it has not complied with the law and it violates the people’s rights, and the permit is not for the prosperity of the people. Only several people who can effort buying the land reclamation will get the benefits. While 12,000 fishermen may not get the benefits, they should give up their rights to 10 private companies.

The reclamation projects, however, will continue and “Luhut played down a court verdict that annulled a gubernatorial decree on the development of Island G”\(^\text{16}\). His decision is violated the Article 1 (3) of Indonesian Constitution that states Indonesia is a country based on law.

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\(^{15}\) Indymedia, *Stop the Northern Coastal Reclamation Project*

B. UNCLOS\textsuperscript{17} regarding Reclamation

The Law of the Sea (UNCLOS) does not specifically rule about reclamation. However, UNCLOS legislates artificial islands, “installation, and structures”. UNCLOS rules that “the coastal State have the exclusive right to construct and authorize and regulate the construction, operation and use of artificial islands”\textsuperscript{18}. An artificial island or man-made island is an island that has been constructed by people rather than formed by natural means. Land reclamation is the gain of land from the sea or wetlands, or other water bodies, and restoration of productivity or use to lands that have been degraded by human activities or impaired by natural phenomena.

According to the UNCLOS, reclamation is the artificial islands. The GoI is the one who has the exclusive right to build, operate and use the artificial islands.

Consistent with the UNCLOS, the GoI “shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regards to customs, fiscal, health, safety and immigration laws and regulations”\textsuperscript{19}.

Of course the GoI has the international responsibility to protect the territory integrity and to fulfill international obligation under the UNCLOS. Accordance with the UNCLOS, artificial island may not be given to private sector to manage, build, operate, and use the artificial island. However, the GoI has given the power to private sector to utilize the Northern Coast of Jakarta. The decision of the GoI in adopting the reclamation permission in the Northern Coast of Jakarta is not accordance with the UNCLOS.

C. State Defense and Security

http://ncsicd.com/2014/10/page/3/

\textsuperscript{17} United Nations Convention on the Law of the Sea (1982), 1833 UNTS 3, in force 16 November 1994,

\textsuperscript{18} Article 60 (1) of UNCLOS.

\textsuperscript{19} Article 60 (2) \textit{Ibid}
As a huge archipelago State with a special character, Indonesia needs to have ocean policies that will define in detail how to protect marine territory from external attack. Indonesia needs marine policies because the marine is the main gate for archipelago States such as Indonesia. As the main gate it is important for having comprehensive policies to protect the State territory. Up until now, Indonesia has not have the State policy of defending and securing the State territory integrity.

According to the suggestion from Indonesian Marine Board in 2011, the description of ocean policies should: (1) adopt or accommodate a variety of the intrinsic uniqueness; (2) facilitate and mediate a critical dialogue between the interests of prosperity and security; (3) have and apply in the future needs; and (4) think that the aims are to build a strong development of marine State. The State should decide which one is the most important between getting high profit in economics and the State security (Indonesian Marine Council, 2011).

The GoI has not fully succeeded to facilitate and mediate between the interest of prosperity of the people and security for the State. In the case of reclamation in Northern Coast of Jakarta is the best case to illustrate it. In that case, the GoI has failed to choose two of them. The welfare of Jakarta society has been sacrificed for the Jakarta’s reclamation.

In protecting and maintaining the State defense and security in Jakarta Province is the central government authority. Refer to Article 26 of Law No. 29 Year 2007, the provincial government of Jakarta does not have the delegation of authority from the GoI to maintain national security and defense. In conclusion, the GoI should have the competency to authorize which projects may hamper the State security and defense.

Considering the geographical position of Indonesia, it has strategic position for world trade line through the sea. Many countries have seen its Indonesian strategic position and they desire to occupy the Indonesian territory. If Indonesia has not had integrated strategies for the State defense and security, the GoI may lose the power of the State territory.

III. Conclusion

As Jakarta’s population increases, demand for land and public housing in the city has also risen. To fulfill this pressing demand, the government has decided on expanding the city’s land mass, by way of reclamation and the construction of 17 man-made islands in Jakarta’s north coast.

It should be noted that as Jakarta is the capital city of Indonesia, there are many vital objects located throughout the city. The government’s decision to carry out the reclamation project Jakarta’s north coast is not in accordance with the laws and policies relating to national defense and security in this matter. In particular, the reclamation project’s spatial plan to privatize the 27,000 hectares of reclaimed land and the whole extent of Jakarta’s north coast shoreline, will
make it difficult for the government to maintain authority and control over the areas.

In conclusion, the reclamation project in Jakarta’s north coast jeopardizes the national defense and security interest. The reclamation project should therefore be fully managed and owned by the Indonesian government. At least half of the 27,000 hectares of reclaimed land should remain as public space and not be privately owned.
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